
CORAM : MR.JUSTICE R.BALIA.

Date of decision: 28/09/98

ORAL COMMON JUDGEMENT

1. All these petitions raise a common question. Therefore, all these petitions are decided by this common order.

2. In all these cases, respective petitioners have purchased agricultural land and got their name mutated in the land records. In all the cases, notice have been issued by respondent No.1 under Section 84C of the Bombay Tenancy and Agricultural Lands Act, 1948 calling upon the petitioners to show cause why the sale in their favour did not declare to be invalid for alleged breach of the provisions of the Tenancy Act. Notice has also been issued under Sec.118 (6) of the Gujarat Land Revenue Rules for cancelling the entries made in the land records in favour of petitioners in pursuance of the said sale.

3. In both petitions notice have been issued after expiry of one year from the date of entry in the land records in favour of the petitioners.

4. The sole contention raised at this stage is that the notice issued are being beyond period of one year, are unreasonable exercise of power vested in the authorities and exercise of power arbitrarily and unreasonably by the authorities must be struck down. Reliance is placed in MAVJI DHORJI vs. STATE OF GUJARAT, 1994 (1) GLH 20.

5. Having carefully considered the contentions raised, I am of the opinion that all the petitions are premature. The petitioners have chosen to approach this court merely against the proposed action. Whatever, the petitioners desires to urge against the proposed action, they are free to take their stand before the respective

authorities. There is no question of inherent lack of jurisdiction in the respective authorities who have issued the notices. So far as the contention of the learned counsel for the petitioners relates to the notices being beyond reasonable time having issued after one year of the impugned transaction/impugned entries. The plea is unacceptable. It is true where no period has

been prescribed for reviewing or revising an order by superior authority, the action must be taken within reasonable period. However, the question is what shall be the reasonable period which is considered to be justifiable in the given case again always depends upon the facts and circumstances of each case. No strait jacket formulae fixing specified period can be applied blindly nor the decision of court stating what ordinarily constitute a reasonable period can be read as statute to hold that any action initiated after the period so stated in judicial pronouncement would be without jurisdiction.

6. It may be pertinent to note that even the decision relied by the learned counsel does not favour the view propounded by him, which in unequivocal terms says:

`The aforesaid discussion would not mean that no powers under Section 84C of the Act can be exercised beyond a period of one year from the date the mutation entry in the revenue records with respect to the said transaction is certified in accordance with Section 135D(6) of the Code. If the power under Section 84C of the Act is exercised beyond the period, the affected party will be justified in showing to the authority that the initiation of the proceedings for the purpose would materially prejudice his case. The affected party, for instance, might have made huge investment after expiry of one year from the date the entry in the revenue records in his favour is certified..... In that case, if the authority initiating the proceedings under Section 84C of the Act is satisfied that the action thereunder would prejudicially and materially effect the recipient of the notice, he need not exercise his powers thereunder. Section 84C of the Act are sought to be exercised beyond highly unreasonable time, say about 5 years after the entry pertaining to the so called invalid transaction in the revenue records is certified, the authority exercising such powers will have to justify his belated action."

7. Thus, it is seen that even as per the aforesaid decision, initiation of proceedings cannot be termed void on its inception. It ultimately depend upon hearing the respondents to show cause. Then the authority has to decide whether to exercise the power of revision or not in the given circumstances beyond the period of one year

or beyond the reasonable period which is considered to be justifiable in the facts and the circumstances of the case.

7. In that view of the matter, I am of the opinion that petitions are premature and the same are accordingly dismissed. Rule is discharged in each petition. No costs.

p.n.nair